

AMENDED IN ASSEMBLY JULY 11, 2005

AMENDED IN ASSEMBLY JUNE 22, 2005

AMENDED IN SENATE MAY 9, 2005

AMENDED IN SENATE APRIL 21, 2005

SENATE BILL

No. 1112

Introduced by Committee on Business, Professions and Economic Development (Senators Figueroa (Chair), Aanestad, Campbell, Florez, Morrow, Murray, and Simitian)

March 30, 2005

An act to amend Sections 5515, ~~5615, 5640, 7011.4,~~ 7028.13, 7065.05, 7071.6, 7071.11, 7071.12, 7073, 7085, ~~7110.5, and 7145.5~~ of, ~~and to repeal and add Section 7071.15 of, the Business and~~ *and 7110.5 of the Business and Professions Code*, and to amend Section 19830 of the Health and Safety Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1112, as amended, Committee on Business, Professions and Economic Development. Contractors and architects.

(1) Existing law provides for the licensing and regulation of architects by the California Architects Board in the Department of Consumer Affairs. Existing law provides that appointments to the board expire on June 1 of the 4th year following the year in which the previous term expired.

This bill would instead provide that board appointments expire on June 30 of the 4th year following the year in which the previous term expired.

~~Existing law makes it a misdemeanor for any person to use the title “landscape architect” or to use the terms “landscape architecture,” “landscape architectural,” or any other titles, words, or abbreviations that would imply licensure as a landscape architect without possessing a valid, unrevoked license from the board.~~

~~This bill would also make it a misdemeanor for any person without a valid, unrevoked license to use the stamp of a licensed landscape architect, advertise or distribute any sign, card, or other device that might indicate to the public that he or she is a licensed landscape architect or is qualified to engage in the practice of landscape architecture. Because the bill would expand the scope of a crime, it would impose a state-mandated local program.~~

(2) Existing law, the Contractors’ State License Law, provides for the licensing and regulation of contractors by the Contractors’ State License Board in the Department of Consumer Affairs. Existing law requires cities and counties that require issuance of a permit as a condition precedent to the construction, alteration, improvement, demolition, or repair of a building or structure to give specified notices. ~~Existing law creates an enforcement unit within the board, and specifies that employees of the unit are not peace officers and are not entitled to safety member retirement benefits.~~

~~This bill would revise the above notice requirement to conform with certain provisions of existing law. The bill would delete the provision specifying that employees of the enforcement unit are not entitled to safety member retirement benefits.~~

Existing law establishes an arbitration process administered by the board to resolve disputes between contractors and consumers. Existing law authorizes the registrar of contractors, after investigating complaints and finding possible violations, to refer the alleged violation and complaint to arbitration if damages are more than \$7,500, and if certain other conditions are met.

This bill would instead require that, for referral to arbitration, the damages or potential damages be greater than the amount of the licensing bond required.

Existing law requires the registrar, upon receipt of a certified copy of the Labor Commissioner’s finding of a willful or deliberate violation of certain provisions, to initiate formal disciplinary action against a license within 30 days of notification.

This bill would delete the requirement that the disciplinary action be formal.

Existing law requires an action not to recover wages or fringe benefits against a deposit to be brought within a certain time period after expiration of a license, or after the license was inactivated, canceled, or revoked. Existing law provides that a deposit in lieu of a bond shall not be released until a complaint is adjudicated.

This bill would also require a claim to recover wages or fringe benefits to be brought within 6 months of discovery of the wage or fringe benefit delinquencies, but not later than 2 years from the date the wage or fringe benefit contributions were due. The bill would provide that legal fees can't be charged by the board against a deposit posted. The bill would delete the provisions that a deposit shall not be released until a complaint is adjudicated and would instead provide that, if the board receives written notification of a civil action against a deposit, the bond will not be released except as ordered by the court.

~~Existing law subjects a licensee to suspension or revocation of a license where the licensee fails to maintain a sufficient bond. Existing law authorizes the registrar to refuse to issue, reinstate, reactivate, or renew a license, or to suspend a license, for failure of licensee to resolve all outstanding final liabilities~~ *authorizes the registrar to deny an application for licensure for specified reasons.*

~~This bill would instead suspend a license, without notice from the board, where a licensee fails to maintain a sufficient bond. The bill would also authorize the registrar, in lieu of denying licensure, to issue a probationary license, and would enact provisions relating to revocation and renewal of a probationary license. The bill would prohibit a person and any member or personnel of a license subject to suspension from serving as an officer, director, associate, partner, owner, qualifying individual, or personnel of record for another license, and would suspend the license of another renewable licensed entity with any of the same personnel of record that has been assessed an outstanding liability, until the debt is satisfied or the personnel disassociates themselves from the entity.~~

This bill would make other nonsubstantive changes to the provisions relating to contractors.

~~(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5515 of the Business and Professions
2 Code is amended to read:

3 5515. Every person appointed shall serve for four years and
4 until the appointment and qualification of his or her successor or
5 until one year shall have elapsed since the expiration of the term
6 for which he or she was appointed, whichever first occurs.

7 No person shall serve as a member of the board for more than
8 two consecutive terms.

9 Vacancies occurring prior to the expiration of the term shall be
10 filled by appointment for the unexpired term.

11 Each appointment shall expire on June 30 of the fourth year
12 following the year in which the previous term expired.

13 The Governor shall appoint three of the public members and
14 the five licensed members qualified as provided in Section 5514.
15 The Senate Rules Committee and the Speaker of the Assembly
16 shall each appoint a public member.

17 ~~SEC. 2. Section 5615 of the Business and Professions Code is~~
18 ~~amended to read:~~

19 ~~5615. As used in this chapter:~~

20 ~~“Landscape architect” means a person who holds a license to~~
21 ~~practice landscape architecture in this state under the authority of~~
22 ~~this chapter.~~

23 ~~A person who practices landscape architecture within the~~
24 ~~meaning and intent of this article is a person who offers or~~
25 ~~performs professional services, for the purpose of landscape~~
26 ~~preservation, development and enhancement, such as~~
27 ~~consultation, investigation, reconnaissance, research, planning,~~
28 ~~design, preparation of drawings, construction documents and~~
29 ~~specifications, and responsible construction observation.~~
30 ~~Landscape preservation, development and enhancement is the~~
31 ~~dominant purpose of services provided by landscape architects.~~
32 ~~Implementation of that purpose includes: (1) the preservation and~~
33 ~~aesthetic and functional enhancement of land uses and natural~~
34 ~~land features; (2) the location and construction of aesthetically~~
35 ~~pleasing and functional approaches and settings for structures~~

1 and roadways; and, (3) design for trails and pedestrian walkway
2 systems, plantings, landscape irrigation, landscape lighting,
3 landscape grading and landscape drainage.

4 Landscape architects perform professional work in planning
5 and design of land for human use and enjoyment. Based on
6 analysis of environmental physical and social characteristics, and
7 economic considerations, they produce overall plans and
8 landscape project designs for integrated land use.

9 The practice of a landscape architect may, for the purpose of
10 landscape preservation, development and enhancement, include:
11 investigation, selection, and allocation of land and water
12 resources for appropriate uses; feasibility studies; formulation of
13 graphic and written criteria to govern the planning and design of
14 land construction programs; preparation review, and analysis of
15 master plans for land use and development; production of overall
16 site plans, landscape grading and landscape drainage plans,
17 irrigation plans, planting plans, and construction details;
18 specifications; cost estimates and reports for land development;
19 collaboration in the design of roads, bridges, and structures with
20 respect to the functional and aesthetic requirements of the areas
21 on which they are to be placed; negotiation and arrangement for
22 execution of land area projects; field observation and inspection
23 of land area construction, restoration, and maintenance.

24 This practice shall include the location, arrangement, and
25 design of those tangible objects and features as are incidental and
26 necessary to the purposes outlined herein. Nothing herein shall
27 preclude a duly licensed landscape architect from planning the
28 development of land areas and elements used thereon or from
29 performing any of the services described in this section in
30 connection with the settings, approaches, or environment for
31 buildings, structures, or facilities, in accordance with the
32 accepted public standards of health, safety, and welfare.

33 This chapter shall not empower a landscape architect, licensed
34 under this chapter, to practice, or offer to practice, architecture or
35 engineering in any of its various recognized branches.

36 SEC. 3. Section 5640 of the Business and Professions Code is
37 amended to read:

38 5640. It is a misdemeanor, punishable by a fine of not less
39 than one hundred dollars (\$100) nor more than five thousand
40 dollars (\$5,000) or by imprisonment in the county jail not

1 exceeding six months, or by both that fine and imprisonment, for
2 any person, who, without possessing a valid, unrevoked license
3 as provided in this chapter, engages in the practice of landscape
4 architecture, uses the stamp of a licensed landscape architect as
5 specified in Section 5659, advertises or distributes any sign, card,
6 or other device that might indicate to the public that he or she is a
7 licensed landscape architect or is qualified to engage in the
8 practice of landscape architecture, or uses the title or term
9 “landscape architect,” “landscape architecture,” “landscape
10 architectural,” or any other titles, words, or abbreviations that
11 would imply or indicate that he or she is a landscape architect as
12 defined in Section 5615.

13 SEC. 4. ~~Section 7011.4 of the Business and Professions Code~~
14 ~~is amended to read:~~

15 ~~7011.4. (a) Notwithstanding Section 7011, there is in the~~
16 ~~Contractors’ State License Board, a separate enforcement unit~~
17 ~~which shall rigorously enforce this chapter prohibiting all forms~~
18 ~~of unlicensed activity.~~

19 ~~(b) Persons employed as enforcement representatives in this~~
20 ~~unit and designated by the Director of Consumer Affairs are not~~
21 ~~peace officers. They do not have the power of arrest. However,~~
22 ~~they may issue a written notice to appear in court pursuant to~~
23 ~~Chapter 5e (commencing with Section 853.5) of Title 3 of Part 2~~
24 ~~of the Penal Code.~~

25 SEC. 5.—

26 SEC. 2. Section 7028.13 of the Business and Professions
27 Code is amended to read:

28 7028.13. (a) After the exhaustion of the review procedures
29 provided for in Sections 7028.10 to 7028.12, inclusive, the
30 registrar may apply to the appropriate superior court for a
31 judgment in the amount of the civil penalty and an order
32 compelling the cited person to comply with the order of
33 abatement. The application, which shall include a certified copy
34 of the final order of the registrar, shall constitute a sufficient
35 showing to warrant the issuance of the judgment and order. If the
36 cited person did not appeal the citation, a certified copy of the
37 citation and proof of service, and a certification that the person
38 cited is not or was not a licensed contractor or applicant for a
39 license at the time of issuance of the citation, shall constitute a

1 sufficient showing to warrant the issuance of the judgment and
2 order.

3 (b) Notwithstanding any other provision of law, the registrar
4 may delegate the collection of the civil penalty for any citation
5 issued to any person or entity legally authorized to engage in
6 collections. Costs of collection shall be borne by the person cited.
7 The registrar shall not delegate the authority to enforce the order
8 of abatement.

9 (c) Notwithstanding any other provision of law, the registrar
10 shall have the authority to assign the rights to the civil penalty, or
11 a portion thereof, for adequate consideration. The assignee and
12 the registrar shall have all the rights afforded under the ordinary
13 laws of assignment of rights and delegation of duties. The
14 registrar shall not assign the order of abatement. The assignee
15 may apply to the appropriate superior court for a judgment based
16 upon the assigned rights upon the same evidentiary showing as
17 set forth in subdivision (a).

18 (d) Notwithstanding any other provision of law, including
19 subdivisions (a) and (b) of Section 340 of the Code of Civil
20 Procedure, the registrar or his or her designee or assignee shall
21 have four years from the date of the final order to collect civil
22 penalties except that the registrar or his or her designee or
23 assignee shall have 10 years from the date of the judgment to
24 enforce civil penalties on citations that have been converted to
25 judgments through the process described in subdivisions (a) and
26 (c).

27 ~~SEC. 6.—~~

28 *SEC. 3.* Section 7065.05 of the Business and Professions
29 Code is amended to read:

30 7065.05. The board shall periodically review and, if needed,
31 revise the contents of qualifying examinations to insure that the
32 examination questions are timely and relevant to the business of
33 contracting. The board shall, in addition, construct and conduct
34 examinations in such a manner as to preclude the possibility of
35 any applicant having prior knowledge of any specific
36 examination question.

37 ~~SEC. 7.—~~

38 *SEC. 4.* Section 7071.6 of the Business and Professions Code
39 is amended to read:

1 7071.6. (a) The board shall require as a condition precedent
2 to the issuance, reinstatement, reactivation, renewal, or continued
3 maintenance of a license, that the applicant or licensee file or
4 have on file a contractor's bond in the sum of ten thousand
5 dollars (\$10,000), regardless of the classification. However, on
6 and after January 1, 2007, the sum of the bond that an applicant
7 or licensee is required to have on file shall be twelve thousand
8 five hundred dollars (\$12,500).

9 (b) Excluding the claims brought by the beneficiaries specified
10 in subdivision (a) of Section 7071.5, the aggregate liability of a
11 surety on claims brought against a bond required by this section
12 shall not exceed the sum of seven thousand five hundred dollars
13 (\$7,500). The bond proceeds in excess of seven thousand five
14 hundred dollars (\$7,500) shall be reserved exclusively for the
15 claims of the beneficiaries specified in subdivision (a) of Section
16 7071.5. However, nothing in this section shall be construed so as
17 to prevent any beneficiary specified in subdivision (a) of Section
18 7071.5 from claiming or recovering the full measure of the bond
19 required by this section.

20 (c) No bond shall be required of a holder of a license that has
21 been inactivated on the official records of the board during the
22 period the license is inactive.

23 (d) Notwithstanding any other provision of law, as a condition
24 precedent to licensure, the board may require an applicant to post
25 a contractor's bond in twice the amount required pursuant to
26 subdivision (a) until the time that the license is renewed, under
27 the following conditions:

28 (1) The applicant has either been convicted of a violation of
29 Section 7028 or has been cited pursuant to Section 7028.7.

30 (2) If the applicant has been cited pursuant to Section 7028.7,
31 the citation has been reduced to a final order of the registrar.

32 (3) The violation of Section 7028, or the basis for the citation
33 issued pursuant to Section 7028.7, constituted a substantial injury
34 to the public.

35 ~~SEC. 8.—~~

36 SEC. 5. Section 7071.11 of the Business and Professions
37 Code is amended to read:

38 7071.11. (a) The aggregate liability of a surety on a claim for
39 wages and fringe benefits brought against any bond required by
40 this article, other than a bond required by Section 7071.8, shall

1 not exceed the sum of four thousand dollars (\$4,000). If any bond
2 required by this article is insufficient to pay all claims in full, the
3 sum of the bond shall be distributed to all claimants in proportion
4 to the amount of their respective claims.

5 (b) No license may be renewed, reissued, or reinstated while
6 any judgment or admitted claim in excess of the amount of the
7 bond remains unsatisfied. The following limitations periods
8 apply to bonds required by this article:

9 (1) Any action, other than an action to recover wages or fringe
10 benefits, against a contractor's bond or a bond of a qualifying
11 individual filed by an active licensee shall be brought within two
12 years after the expiration of the license period during which the
13 act or omission occurred, or within two years of the date the
14 license of the active licensee was inactivated, canceled, or
15 revoked by the board, whichever first occurs.

16 (2) Any action, other than an action to recover wages or fringe
17 benefits, against a disciplinary bond filed by an active licensee
18 pursuant to Section 7071.8 shall be brought within two years
19 after the expiration of the license period during which the act or
20 omission occurred, or within two years of the date the license of
21 the active licensee was inactivated, canceled, or revoked by the
22 board, or within two years after the last date for which a
23 disciplinary bond filed pursuant to Section 7071.8 was required,
24 whichever date is first.

25 (3) A claim to recover wages or fringe benefits shall be
26 brought within six months from the date that the wage or fringe
27 benefit delinquencies were discovered, but in no event shall a
28 civil action thereon be brought later than two years from the date
29 the wage or fringe benefit contributions were due.

30 (c) Whenever the surety makes payment on any claim against
31 a bond required by this article, whether or not payment is made
32 through a court action or otherwise, the surety shall, within 30
33 days of the payment, provide notice to the registrar. The notice
34 required by this subdivision shall provide the following
35 information by declaration on a form prescribed by the registrar:

36 (1) The name and license number of the contractor.

37 (2) The surety bond number.

38 (3) The amount of payment.

39 (4) The statutory basis upon which the claim is made.

1 (5) The names of the person or persons to whom payments
2 have been made.

3 (6) Whether or not the payments were the result of a good
4 faith action by the surety.

5 The notice shall also clearly indicate whether or not the
6 licensee filed a protest in accordance with this section.

7 (d) Prior to the settlement of a claim through a good faith
8 payment by the surety, a licensee shall have not less than 15 days
9 in which to provide a written protest. This protest shall instruct
10 the surety not to make payment from the bond on the licensee's
11 account upon the specific grounds that the claim is opposed by
12 the licensee, and provide the surety a specific and reasonable
13 basis for the licensee's opposition to payment.

14 (1) Whenever a licensee files a protest in accordance with this
15 subdivision, the board shall investigate the matter and file
16 disciplinary action as set forth under this chapter if there is
17 evidence that the surety has sustained a loss as the result of a
18 good faith payment made for the purpose of mitigating any
19 damages incurred by any person or entity covered under Section
20 7071.5.

21 (2) Any licensee that fails to file a protest as specified in this
22 subdivision shall have 90 days from the date of notification by
23 the board to submit proof of payment of the actual amount owed
24 to the surety and, if applicable, proof of payment of any
25 judgment or admitted claim in excess of the amount of the bond
26 or, by operation of law, the license shall be suspended at the end
27 of the 90 days. A license suspension pursuant to this subdivision
28 shall be disclosed indefinitely as a failure to settle outstanding
29 final liabilities in violation of this chapter. The disclosure
30 specified by this subdivision shall also be applicable to all
31 licenses covered by the provisions of subdivision (d).

32 (e) No license may be renewed, reissued, or reinstated while
33 any surety remains unreimbursed for any loss or expense
34 sustained on any bond issued for the licensee or for any entity of
35 which any officer, director, member, partner, or qualifying
36 person was an officer, director, member, partner, or qualifying
37 person of the licensee while the licensee was subject to
38 suspension or disciplinary action under this section.

39 (f) The licensee may provide the board with a notarized copy
40 of an accord, reached with the surety to satisfy the debt in lieu of

1 full payment. By operation of law, failure to abide by the accord
2 shall result in the automatic suspension of any license to which
3 this section applies. A license that is suspended for failure to
4 abide by the accord may only be renewed or reinstated when
5 proof of satisfaction of all debts is made.

6 (g) Legal fees may not be charged against the bond by the
7 board.

8 ~~SEC. 9.—~~

9 *SEC. 6.* Section 7071.12 of the Business and Professions
10 Code is amended to read:

11 7071.12. (a) Instead of the bond provided by this article a
12 deposit may be given pursuant to Article 7 (commencing with
13 Section 995.710) of Chapter 2 of Title 14 of Part 2 of the Code of
14 Civil Procedure.

15 (b) If the board is notified, in writing, of a civil action against
16 the deposit authorized under this section, the deposit or any
17 portion thereof shall not be released for any purpose, except as
18 determined by the court.

19 (c) If any deposit authorized under this section is insufficient
20 to pay, in full, all claims that have been adjudicated under any
21 action filed in accordance with this section, the sum of the
22 deposit shall be distributed to all claimants in proportion to the
23 amount of their respective claims.

24 (d) The following limitations periods apply to deposits in lieu
25 of the bond required by this article:

26 (1) Any action, other than an action to recover wages or fringe
27 benefits, against a deposit given in lieu of a contractor's bond or
28 bond of a qualifying individual filed by an active licensee shall
29 be brought within three years after the expiration of the license
30 period during which the act or omission occurred, or within three
31 years of the date the license of the active licensee was
32 inactivated, canceled, or revoked by the board, whichever occurs
33 first.

34 (2) Any action, other than an action to recover wages or fringe
35 benefits, against a deposit given in lieu of a disciplinary bond
36 filed by an active licensee pursuant to Section 7071.8 shall be
37 brought within three years after the expiration of the license
38 period during which the act or omission occurred, or within three
39 years of the date the license of the active licensee was
40 inactivated, canceled, or revoked by the board, or within three

1 years after the last date for which a deposit given in lieu of a
2 disciplinary bond filed pursuant to Section 7071.8 was required,
3 whichever date is first.

4 (3) A claim to recover wages or fringe benefits shall be
5 brought within six months from the date that the wage or fringe
6 benefit delinquencies were discovered, but in no event shall a
7 civil action thereon be brought later than two years from the date
8 the wage or fringe benefit contributions were due.

9 (e) In any case in which a claim is filed against a deposit given
10 in lieu of a bond by any employee or by an employee
11 organization on behalf of an employee, concerning wages or
12 fringe benefits based upon the employee's employment, claims
13 for the nonpayment shall be filed with the Labor Commissioner.
14 The Labor Commissioner shall, pursuant to the authority vested
15 by Section 96.5 of the Labor Code, conduct hearings to
16 determine whether or not the wages or fringe benefits should be
17 paid to the complainant. Upon a finding by the commissioner that
18 the wages or fringe benefits should be paid to the complainant,
19 the commissioner shall notify the register of the findings. The
20 registrar shall not make payment from the deposit on the basis of
21 findings by the commissioner for a period of 10 days following
22 determination of the findings. If, within the period, the
23 complainant or the contractor files written notice with the
24 registrar and the commissioner of an intention to seek judicial
25 review of the findings pursuant to Section 11523 of the
26 Government Code, the registrar shall not make payment if an
27 action is actually filed, except as determined by the court. If,
28 thereafter, no action is filed within 60 days following
29 determination of findings by the commissioner, the registrar shall
30 make payment from the deposit to the complainant.

31 (f) Legal fees may not be charged by the board against any
32 deposit posted pursuant to this section.

33 ~~SEC. 10. Section 7071.15 of the Business and Professions~~
34 ~~Code is repealed.~~

35 ~~SEC. 11. Section 7071.15 is added to the Business and~~
36 ~~Professions Code, to read:~~

37 ~~7071.15. By operation of law, failure to maintain any bond~~
38 ~~that is required under this article as a condition of licensure or~~
39 ~~continued licensure shall, without notice by the board, result in~~
40 ~~the suspension of the license for which the bond is required.~~

1 ~~SEC. 12.~~—

2 *SEC. 7.* Section 7073 of the Business and Professions Code is
3 amended to read:

4 7073. (a) The registrar may deny any application for a
5 license or supplemental classification where the applicant has
6 failed to comply with any rule or regulation adopted pursuant to
7 this chapter or where there are grounds for denial under Section
8 480. Procedures for denial of an application shall be conducted in
9 accordance with Section 485.

10 (b) When the board has denied an application for a license on
11 grounds that the applicant has committed a crime substantially
12 related to qualifications, functions, or duties of a contractor, it
13 shall, in its decision or in its notice under subdivision (b) of
14 Section 485, inform the applicant of the earliest date on which
15 the applicant may reapply for a license. The board shall develop
16 criteria, similar to the criteria developed to evaluate
17 rehabilitation, to establish the earliest date on which the applicant
18 may reapply. The date set by the registrar shall not be more than
19 five years from the effective date of the decision or service of
20 notice under subdivision (b) of Section 485.

21 (c) The board shall inform an applicant that all competent
22 evidence of rehabilitation shall be considered upon reapplication.

23 (d) Along with the decision or notice under subdivision (b) of
24 Section 485, the board shall serve a copy of the criteria for
25 rehabilitation formulated under Section 482.

26 (e) In lieu of denying licensure as authorized under this
27 section, the registrar may issue an applicant a probationary
28 license with terms and conditions. During the probationary
29 period, if information is brought to the attention of the registrar
30 regarding any act or omission of the licensee constituting
31 grounds for discipline or denial of licensure for which the
32 registrar determines that revocation of the probationary license
33 would be proper, the registrar shall notify the applicant to show
34 cause within 30 days why the probationary license should not be
35 revoked. The proceedings shall be conducted in accordance with
36 the provisions of Chapter 5 (commencing with Section 11500) of
37 Part 1 of Division 3 of Title 2 of the Government Code, and the
38 registrar shall have all the powers granted therein. A
39 probationary license shall not be renewed during any period in

1 which any proceeding brought pursuant to this section is
2 pending.

3 ~~SEC. 13.—~~

4 *SEC. 8.* Section 7085 of the Business and Professions Code is
5 amended to read:

6 7085. (a) After investigating any verified complaint alleging
7 a violation of Section 7107, 7109, 7110, 7113, 7119, or 7120,
8 and any complaint arising from a contract involving works of
9 improvement and finding a possible violation, the registrar may,
10 with the concurrence of both the licensee and the complainant,
11 refer the alleged violation, and any dispute between the licensee
12 and the complainant arising thereunder, to arbitration pursuant to
13 this article, provided the registrar finds that:

14 (1) There is evidence that the complainant has suffered or is
15 likely to suffer material damages as a result of a violation of
16 Section 7107, 7109, 7110, 7113, 7119, or 7120, and any
17 complaint arising from a contract involving works of
18 improvement.

19 (2) There are reasonable grounds for the registrar to believe
20 that the public interest would be better served by arbitration than
21 by disciplinary action.

22 (3) The licensee does not have a history of repeated or similar
23 violations.

24 (4) The licensee was in good standing at the time of the
25 alleged violation.

26 (5) The licensee does not have any outstanding disciplinary
27 actions filed against him or her.

28 (6) The parties have not previously agreed to private
29 arbitration of the dispute pursuant to contract or otherwise.

30 (7) The parties have been advised of the provisions of Section
31 2855 of the Civil Code.

32 For the purposes of paragraph (1), “material damages” means
33 damages greater than the amount of the bond required under
34 subdivision (a) of Section 7071.6, but less than fifty thousand
35 dollars (\$50,000).

36 (b) In all cases in which a possible violation of the sections set
37 forth in paragraph (1) of subdivision (a) exists and the contract
38 price, or the demand for damages is equal to or less than the
39 amount of the bond required under Section 7071.6, but,
40 regardless of the contract price, the complaint shall be referred to

1 arbitration, utilizing the criteria set forth in paragraphs (2) to (6),
2 inclusive, of subdivision (a).

3 ~~SEC. 14.—~~

4 *SEC. 9.* Section 7110.5 of the Business and Professions Code
5 is amended to read:

6 7110.5. Upon receipt of a certified copy of the Labor
7 Commissioner's finding of a willful or deliberate violation of the
8 Labor Code by a licensee, pursuant to Section 98.9 of the Labor
9 Code, the registrar shall initiate disciplinary action against the
10 licensee within 30 days of notification.

11 ~~SEC. 15. Section 7145.5 of the Business and Professions~~
12 ~~Code is amended to read:~~

13 ~~7145.5. (a) The registrar may refuse to issue, reinstate,~~
14 ~~reactivate, or renew a license or may suspend a license for the~~
15 ~~failure of a licensee to resolve all outstanding final liabilities,~~
16 ~~which include taxes, additions to tax, penalties, interest and any~~
17 ~~fees that may be assessed by the board, the Department of~~
18 ~~Industrial Relations, the Employment Development Department,~~
19 ~~or the Franchise Tax Board.~~

20 ~~(1) The qualifying person and any other member of the~~
21 ~~personnel of any license that is subject to suspension under this~~
22 ~~section shall be automatically prohibited from serving as an~~
23 ~~officer, director, associate, partner, owner, qualifying individual,~~
24 ~~or other personnel of record for another license.~~

25 ~~(2) The license of any other renewable licensed entity with any~~
26 ~~of the same personnel of record that have been assessed an~~
27 ~~outstanding liability covered by this section shall be suspended~~
28 ~~until the debt has been satisfied, or until those same personnel of~~
29 ~~record disassociate themselves from the renewable licensed~~
30 ~~entity.~~

31 ~~(b) The refusal to issue a license or the suspension of a license~~
32 ~~as provided by this section shall be applicable only if the registrar~~
33 ~~has mailed a notice preliminary to the refusal or suspension~~
34 ~~which indicates that the license will be refused or suspended by a~~
35 ~~date certain. This preliminary notice shall be mailed to the~~
36 ~~licensee at least 60 days before the date certain.~~

37 ~~(c) In the case of outstanding final liabilities assessed by the~~
38 ~~Franchise Tax Board, this section shall be operative within 60~~
39 ~~days after the Contractor's State Licensing Board has provided~~
40 ~~the Franchise Tax Board with the information required under~~

1 ~~Section 30, relating to licensing information which includes the~~
2 ~~federal employee identification number or social security~~
3 ~~number.~~

4 ~~(d) All versions of the application for contractor's licenses~~
5 ~~shall include, as part of the application, an authorization by the~~
6 ~~applicant, in the form and manner mutually agreeable to the~~
7 ~~Franchise Tax Board and the board, for the Franchise Tax Board~~
8 ~~to disclose the tax information that is required for the registrar to~~
9 ~~administer this section. The Franchise Tax Board may from time~~
10 ~~to time audit these authorizations.~~

11 ~~SEC. 16.—~~

12 *SEC. 10.* Section 19830 of the Health and Safety Code is
13 amended to read:

14 19830. Every city or county, whether general law or
15 chartered, which requires the issuance of a permit as a condition
16 precedent to the construction, alteration, improvement,
17 demolition, or repair of any building or structure, shall, in
18 addition to any other requirements, prepare and give notice to the
19 owner of the building or structure whenever an application for a
20 building permit is submitted in the owner's name as builder of
21 the improvements. The notice shall be given by mail; or the
22 notice may be given to the applicant at the time the application
23 for the permit is made, provided that the applicant presents
24 identification sufficient to identify himself or herself as the
25 owner. The notice shall be in substantially the following form:

26
27 "OWNER-BUILDER INFORMATION
28

29 "Dear Property Owner:

30 "An application for a building permit has been submitted in
31 your name listing yourself as the builder of the property
32 improvements specified.

33 "For your protection you should be aware that as
34 'owner-builder' you are the responsible party of record on the
35 permit. Building permits are not required to be signed by
36 property owners unless they are personally performing their own
37 work. If your work is being performed by someone other than
38 yourself, you may protect yourself from possible liability if that
39 person applies for the proper permit in his or her name.

1 “Contractors are required by law to be licensed and bonded by
2 the State of California and to have a business license from the
3 city or county. They are also required by law to put their license
4 number on all permits for which they apply.

5 “If you plan to do your own work, with the exception of
6 various trades that you plan to subcontract, you should be aware
7 of the following information for your benefit and protection:

8 “If you employ or otherwise engage any persons other than
9 your immediate family, and the work (including materials and
10 other costs) is \$500 or more for the entire project, and the
11 persons are not licensed as contractors or subcontractors, then
12 you may be an employer.

13 “If you are an employer, you must register with the state and
14 federal government as an employer and you are subject to several
15 obligations including state and federal income tax withholding,
16 federal social security taxes, workers’ compensation insurance,
17 disability insurance costs, and unemployment compensation
18 contributions.

19 “There may be financial risks for you if you do not carry out
20 these obligations, and these risks are especially serious with
21 respect to workers’ compensation insurance.

22 “For more specific information about your obligations under
23 federal law, contact the Internal Revenue Service (and, if you
24 wish, the U.S. Small Business Administration). For more specific
25 information about your obligations under state law, contact the
26 Department of Benefit Payments and the Division of Industrial
27 Accidents.

28 “If the structure is intended for sale, property owners who are
29 not licensed contractors are allowed to perform their work
30 personally or through their own employees, without a licensed
31 contractor or subcontractor, only under limited conditions.

32 “A frequent practice of unlicensed persons professing to be
33 contractors is to secure an ‘owner-builder’ building permit,
34 erroneously implying that the property owner is providing his or
35 her own labor and material personally. Building permits are not
36 required to be signed by property owners unless they are
37 performing their own work personally.

38 “Information about licensed contractors may be obtained by
39 contacting the Contractors’ State License Board’s automated

1 telephone information system at 1-800-321-CSLB (2752) or by
2 accessing their Web site at www.CSLB.ca.gov.

3 “Please complete and return the enclosed owner-builder
4 verification form so that we can confirm that you are aware of
5 these matters. The building permit will not be issued until the
6 verification is returned.

7 Very truly yours,

8 “(Name of permitting agency)”.

9 ~~SEC. 17. No reimbursement is required by this act pursuant~~
10 ~~to Section 6 of Article XIII B of the California Constitution~~
11 ~~because the only costs that may be incurred by a local agency or~~
12 ~~school district will be incurred because this act creates a new~~
13 ~~crime or infraction, eliminates a crime or infraction, or changes~~
14 ~~the penalty for a crime or infraction, within the meaning of~~
15 ~~Section 17556 of the Government Code, or changes the~~
16 ~~definition of a crime within the meaning of Section 6 of Article~~
17 ~~XIII B of the California Constitution.~~